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September 1, 2009

**VIA FEDERAL EXPRESS & FACSIMILE**

Jeff Jordan  
Office of General Counsel  
Federal Election Commission  
999 "E" Street, NW  
Washington, DC 20463  
FAX: (202) 219-3923

Re: *MUR 6207*

Dear Mr. Jordan:

We represent Mark DeSaulnier, DeSaulnier for Congress, Mark DeSaulnier for Senate 2012, Rita Copeland and Shara Perkins (together "respondents") in the above-mentioned matter initiated by Jason Bezis. Respondents received notification from the FEC that Mr. Bezis had amended his complaint on August 17, 2009. Shara Perkins was added as a respondent in the amended complaint, and her designation of counsel form accompanies this letter. Respondents continue to request that this matter remain confidential in accordance with 2 U.S.C. section 437g(a)(4)(B).

The amended complaint contains no additional facts or authority establishing a violation of federal campaign finance laws, so no action should be taken on this matter. In addition to adding Ms. Perkins as a respondent, the amended complaint attaches DeSaulnier for Congress's April 1, 2009 to June 30, 2009 Quarterly Report and DeSaulnier for Senate 2012's January 1, 2009 to June 30, 2009 Recipient Committee Campaign Statement, and details legal contributions and expenditures received and made by those committees. It also cites television and mailing advertising made by DeSaulnier for Congress.<sup>1</sup>

<sup>1</sup> Complainant insinuates that similarities between the content in the federal and state campaign communications raises a legal issue, but fails to identify, much less explain, the nature of legal issue. Further, the first and second mass mailings described in the original complaint are state campaign mailings, and therefore do not require a federal disclaimer.

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The amended complaint then reiterates the initial complaint's allegations that respondents circumvented the Federal Election Campaign Act and the Bipartisan Campaign Reform Act of 2002 ("the Act") because the state campaign committee has received and expended funds in the months before the special primary election for the 10th Congressional District. The initial response letter has already explained that campaign spending from a state account by federal candidates who are also state candidates is explicitly excepted from the Act's restrictions under 2 U.S.C. section 441i(e)(2) and 11 CFR section 300.63. The amended complaint also supplements the complaint with citations to a number of FEC Advice Opinions, all of which were referenced in the initial response letter.

The only new allegation in the amended complaint is that Mark DeSaulnier's state and federal campaign committees have conducted coordinated communications under 11 CFR section 109.21, which the federal committee should have reported to the FEC as an in-kind contribution from the state committee. The FEC has determined, however, that communications made by a federal candidate/officeholder in her capacity as a state candidate are not subject to section 109.21:

Under the first prong of the "coordinated communication" definition, a communication is only subject to the regulations if it "is paid for by a person other than that candidate, an authorized committee, political party committee, or agent of any of the foregoing." 11 CFR 109.21(a)(1). In these circumstances, the candidate and her agents are paying for these communications, so the payment prong is not met and the "coordinated communication" definition is not applicable.

FEC AO 2007 (McCaskill).

Thus, the "payment" prong of section 109.21 does not apply to Mark DeSaulnier and his respective committees and agents.

The allegation is also barred under the exception for federal candidates who are concurrently state candidates. The Act's "limitations, prohibitions, and reporting requirements"

do[ ] not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

2 U.S.C. § 441i(e)(2).

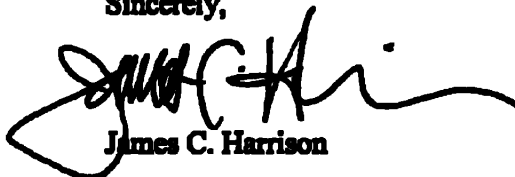
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Section 109.21, like the rest of the Act's contribution and expenditure limits and reporting requirements, is inapplicable to a federal candidate who is also a state candidate. Indeed, without such an exception, it would be impossible to police the interactions between the actions of state and federal campaign committees *of the same individual*. The "conduct" prong of section 109.21(d) requires that the candidate or his committee request, suggest, or assent to the communication; be materially involved in decisions regarding the communication; have substantial discussions about the communication with the person paying for the communication; share a common vendor; or the person paying for the communication must be a former employee or independent contractor of the candidate. Enforcement of section 109.21 against an individual who is both a state candidate and a federal candidate would lead to the absurd result of punishing a candidate for communicating with himself regarding his own communications. The complainant apparently recognizes that application of most parts of the conduct prong would lead to absurd results, so he focuses instead on the "same vendor" part. The fact that the same candidate used the same vendor in his federal and state campaigns, however, can hardly support a violation of section 109.21 under these circumstances.

The amended complaint contains no new facts or authority to support complainant's allegations, and the complaint should therefore be dismissed without further action. If you would like additional information, please do not hesitate to contact us.

Sincerely,



James C. Harrison

JH:mem  
Enclosure  
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COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL  
Please use one form for each Respondent/Client.  
FAX (510) 346-6201

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The above-named individual and/or firm is hereby designated as my  
counsel and is authorized to receive any notifications and other communications  
from the Commission and to act on my behalf before the Commission.

20 AUG 09  
Date

[Signature]  
Respondent/Client Signature

CAMPAIGN MANAGER  
Title

RESPONDENT/CLIENT  
(Please Print)

SHARA PERKINS

MAILING  
ADDRESS:

SACRAMENTO, CA 95820

TELEPHONE- HOME

BUSINESS (25) 957-1123

Information is being sought as part of an investigation being conducted by the Federal Election  
Commission and the confidentiality provisions of 2 U.S.C. § 4371(a)(1)(A) apply. This section  
prohibits making public any investigation conducted by the Federal Election Commission without  
the express written consent of the person under investigation

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